BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

GAYLE I. HOLMES)
Claimant)
VS.)
) Docket No. 211,91
MEDICALODGES INC.)
Respondent)
AND)
MEDICALODGES AFFILIATED)
Insurance Carrier)

ORDER

Claimant appeals from an Order entered by Administrative Law Judge Nelsonna Potts Barnes on January 27, 1997.

ISSUES

Claimant seeks reimbursement for medical mileage. Claimant's injury occurred on March 20, 1996, and she incurred medical mileage expenses both before and after July 1, 1996. The medical mileage rate changed on July 1, 1996, from 29 cents per mile to 30 cents per mile. The Administrative Law Judge ruled that the medical mileage should be reimbursed at the rate in effect on the date of accident. Claimant argues she should be entitled to medical mileage at the rate applicable at the time the miles are driven.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board finds that the Order by the Administrative Law Judge should be modified. Respondent relies in part upon the provisions of K.S.A. 44-535 which provides in pertinent part that the right to compensation should be deemed to have accrued on the date of the accident.

IT IS SO ORDERED

The Appeals Board agrees, however, with the argument made by claimant that medical mileage is a reimbursement, not a form of compensation. The mileage rate is determined annually pursuant to K.S.A. 75-3203a. The rate is fixed based upon a determination of the costs of travel. For this reason the Appeals Board considers the mileage provisions to be a reimbursement for expenses, not a compensation right which accrues on the date of accident. Claimant should be entitled to reimbursement for medical mileage at 29 cents per mile for miles driven prior to July 1, 1996, and at 30 cents per mile beginning July 1, 1996.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Nelsonna Potts Barnes dated January 27, 1997, should be, and the same is hereby, modified. Claimant is awarded medical mileage reimbursement at the rate in effect at the time the miles were driven.

Dated this day of March 1997.
DOADD MEMBER
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

c: Steven R. Wilson, Wichita, KS Kim R. Martens, Wichita, KS Nelsonna Potts Barnes, Administrative Law Judge Philip S. Harness, Director